

ASSEMBLY BILL

No. 1230

Introduced by Assembly Member Gomez

February 27, 2015

An act to amend Section 65858 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1230, as introduced, Gomez. Zoning regulations: interim ordinances.

The Planning and Zoning Law authorizes the legislative body of a city, including a charter city, a county, or a city and county under specified conditions to adopt for a period of 45 days as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, the planning commission, or the planning department is considering or studying or intends to study within a reasonable time. The law also authorizes prescribed extensions of the interim ordinance, subject to specified conditions. The law further requires the legislative body to issue a written report describing the measures taken to alleviate the condition which led to the adoption of the interim ordinance at least 10 days prior to the expiration of the interim ordinance or any extension.

This bill would instead require the written report to be issued 15 days prior to the expiration of the interim ordinance or any extension.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 65858 of the Government Code is amended to read:

65858. (a) Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city and county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted.

(b) Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65090 and public hearing, in which case it shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may by a four-fifths vote extend the interim ordinance for 22 months and 15 days.

(c) The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare. In addition, any interim ordinance adopted pursuant to this section that has the effect of denying approvals needed for the development of projects with a significant component of multifamily housing may not be extended except upon written findings adopted by the legislative body,

1 supported by substantial evidence on the record, that all of the
2 following conditions exist:

3 (1) The continued approval of the development of multifamily
4 housing projects would have a specific, adverse impact upon the
5 public health or safety. As used in this paragraph, a “specific,
6 adverse impact” means a significant, quantifiable, direct, and
7 unavoidable impact, based on objective, identified written public
8 health or safety standards, policies, or conditions as they existed
9 on the date that the ordinance is adopted by the legislative body.

10 (2) The interim ordinance is necessary to mitigate or avoid the
11 specific, adverse impact identified pursuant to paragraph (1).

12 (3) There is no feasible alternative to satisfactorily mitigate or
13 avoid the specific, adverse impact identified pursuant to paragraph
14 (1) as well or better, with a less burdensome or restrictive effect,
15 than the adoption of the proposed interim ordinance.

16 (d) ~~Ten~~ Fifteen days prior to the expiration of that interim
17 ordinance or any extension, the legislative body shall issue a
18 written report describing the measures taken to alleviate the
19 condition which led to the adoption of the ordinance.

20 (e) When an interim ordinance has been adopted, every
21 subsequent ordinance adopted pursuant to this section, covering
22 the whole or a part of the same property, shall automatically
23 terminate and be of no further force or effect upon the termination
24 of the first interim ordinance or any extension of the ordinance as
25 provided in this section.

26 (f) Notwithstanding subdivision (e), upon termination of a prior
27 interim ordinance, the legislative body may adopt another interim
28 ordinance pursuant to this section provided that the new interim
29 ordinance is adopted to protect the public safety, health, and
30 welfare from an event, occurrence, or set of circumstances different
31 from the event, occurrence, or set of circumstances that led to the
32 adoption of the prior interim ordinance.

33 (g) For purposes of this section, “development of multifamily
34 housing projects” does not include the demolition, conversion,
35 redevelopment, or rehabilitation of multifamily housing that is
36 affordable to lower income households, as defined in Section
37 50079.5 of the Health and Safety Code, or that will result in an
38 increase in the price or reduction of the number of affordable units
39 in a multifamily housing project.

- 1 (h) For purposes of this section, “projects with a significant
- 2 component of multifamily housing” means projects in which
- 3 multifamily housing consists of at least one-third of the total square
- 4 footage of the project.